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Public Inspection  
Files

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MM

In the Matter of

2717

Oversight of the Radio  
and TV Broadcast Rules

O R D E R

Adopted: February 21, 1985

; Released: February 26, 1985

By the Chief, Mass Media Bureau:

1. In this Order, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) The local public inspection file rules for commercial stations (§73.3526) and noncommercial stations (§73.3527) have been modified in the past year in the following docketed proceedings:

the Report and Order in MM Docket 83-670, Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial TV stations. 49 FR 33588, August 23, 1984; and the Report and Order in MM Docket 81-496, Revision of Program Policies and Reporting Requirements Related to Public Broadcasting Licensees. 49 FR 33658, August 24, 1984; and Memorandum Opinion and Order in BC Docket 79-219, Deregulation of Radio. 49 FR 43474, October 29, 1984.

(b) In addition to the above three Commission actions, corrective amendments were made to both §73.3526 and 73.3527 in the Order adopted January 24, 1984, 49 FR 4208, February 3, 1984; and in the Erratum released September 11, 1984, which made several editorial corrections in the Report and Order in MM Docket 83-670. 49 FR 36651, September 19, 1984.

(c) The changes, deletions and additions made in the above actions have left the rules with inadvertent errors which are corrected herein.

IN §73.3526

(d) Paragraph (a) presently bears a cross reference to subparagraph (a)(9). (a)(9) was removed in the Report and Order in MM Docket 83-670. The cross reference to it has remained in the opening text of (a). Its retention has created an additional obfuscation: another rule modification in this Docket redesignated former (a)(13) as (a)(9). The text of (a)(13) was marked "[Reserved]", so the cross reference to (a)(9) "[Reserved]" caused some bewilderment. Since subparagraph (a)(9) is marked "[Reserved]", and is serving no purpose valid to this rule, it will be removed

as a "[Reserved]" rule portion, and subparagraphs (a)(10) and (11) will be designated (a)(9) and (10) via this Order.

(e) Another cross reference in the introductory text of (a) directs the rule user to (a)(10). This subparagraph, prior to its removal, provided for public inspection of TV station program logs; it was also removed via MM Docket 83-670. But, like the cross reference to (a)(9), the rule drafted in the Report and Order omitted eliminating it.

We now have cross references to (a)(9) and (a)(10) that apparently should be removed. However, with the redesignation of (a)(10) and (a)(11) as (a)(9) and (a)(10), the cross references in opening paragraph (a) are perfectly correct. We give this rather precise detailing of these modifications so that some future rules' researcher may be helped along this otherwise labyrinthine way. The changes, reflected in the rules appendix herein, will redesignate subparagraphs (a)(10) and (11) to (a)(9) and (10); revise the reference to (a)(11) in the introductory part of paragraph (a) to the the newly redesignated (a)(10); and change any cross references to (a)(10) or (a)(11) to (a)(9) and (10) as they are used in all parts of the rule.

(f) Prior to the rule amendments in MM Docket 83-670, there were two Notes following subparagraph (a)(12). Note 2 stated an exemption to the regulations in (a)(11) and (12). These two subparagraphs set forth the FCC's requirements for ascertainment interviews with community leaders and members of the general public. With the removal of these requirements via the Report and Order, Note 2 was appropriately dispatched. Note 1, which followed subparagraph (a)(12) gave relief to licensees from filing certain engineering sections of applications mentioned in subparagraphs (a)(1) and (2). Unfortunately, Note 1 was inadvertently dispatched along with Note 2. It is returned herein, thus retaining a filing relief for licensees which we, in no way, meant to eliminate. It will be located following paragraph (a)(2) to which it properly belongs.

(g) A minor change in §73.3526 was made in the Memorandum Opinion and Order adopted October 17, 1984 <sup>1/</sup> in which the filing date for the issues/programs list for commercial radio stations was changed from the first day of each calendar quarter to the tenth day, thereby providing licensees more adequate time to prepare their lists. The amendment to §73.3526 in the rules appendix of the Memorandum Opinion and Order revised the rule correctly, but assigned it the subparagraph designation of (a)(14). Unfortunately this designation was changed in the Report and Order in MM Docket 83-670 to subparagraph (a)(10). (Which we have just amended, in this Order, to (a)(9).) The rules appendix in this Order will correct the mis-designation of (a)(14) to (a)(10) and then reflect the change of (a)(10) to (a)(9) as described in paragraph (e) above.

(h) Paragraph (e) of §73.3526 defines the period of retention for each record the licensee is required to place in the public file. This paragraph uses copious cross references to other paragraphs of the rule. The changes described herein will be reflected in paragraph (e) to conform to the

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<sup>1/</sup> See paragraph (a) above.

new paragraph designations. Another revision will be made in paragraph (e) to correct a mis-stated rule section. In the Erratum released September 11, 1984 <sup>2/</sup> to the Report and Order in MM Docket 83-670, the reference to retention of letters received by a station stated it is "for the period specified in §73.202." It should be §73.1202, and is corrected herein.

(i) See items 1 and 2 of the attached rules' appendix for the amendments to §73.3526 described in paragraphs 1.(a) through 1.(i) above.

#### IN §73.3527

(j) The introductory part of paragraph (a) presently requires maintenance of a file "containing material described in paragraph (a)(9) of this section." Paragraph (a)(9) formerly required filing of a copy of portions of exclusivity contracts between TV stations and CATV systems. This requirement was removed in the Report and Order in Dockets 20988 and 21284, In the Matter of Cable TV Syndicated Program Exclusivity Rules. 79 FCC 2d 663. However, the Report and Order failed to delete the text from §73.3527. It was removed from (a)(9) and the subparagraph was marked "[Reserved]" in the Order adopted January 24, 1984. 49 FR 4208, February 3, 1984. But, that Order, while it deleted the non-applicable text from (a)(9), left the cross reference to it in the introductory part of paragraph (a). That reference is deleted herein. Since subparagraph (a)(9), marked "[Reserved]", serves no regulatory purpose, it is deleted here, and subparagraph (a)(10) is redesignated (a)(9), which requires an additional revision to the introductory part of paragraph (a). Now, the second sentence in paragraph (a) will be changed to state that the public inspection file will contain "the material described in paragraphs (a)(1) through (9) of this section," instead of stating "(a)(1) through (8)". It is interesting to note that former (a)(10), (changed to (a)(9) in this Order), has never before enjoyed a reference in the introductory part of paragraph (a). The text of newly designated (a)(9) refers to the requirement to place a statement in the public file certifying compliance with §73.3580 (h), pertaining to pre- and post-filing announcements at the time the renewal application is filed. Formerly, the certification was part of the license renewal application. While the text of former (a)(10) was added to §73.3527, it was never entered in the file maintenance list referenced in the introductory part of paragraph (a).

(k) Prior to the elimination of the obligation of noncommercial stations to carry out formal ascertainment procedures, applicants for new stations (as well as permittees and licensees) were required to determine the significant problems and needs of the area served by the station and the programs proposed to be broadcast in the initial license term in response to them. With the deregulatory measures adopted in MM Docket 81-496, Revision of Program Policies and Reporting Requirements Related to Public Broadcasting Licensees, <sup>3/</sup> the Commission stated "ascertainment obligations will no longer be applied to public stations."

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<sup>2/</sup> See paragraph (b) above.

<sup>3/</sup> See paragraph (a) above.

Simultaneously, the provisions of subparagraph (a)(7), the Problems-programs lists, were removed, relieving permittees and licensees and applicants for new stations of these ascertainment requirements. However, a reference in the introductory part of paragraph (a) still states that an applicant for a new noncommercial educational station must maintain a file containing the material in paragraph (a)....(7), i.e., his ascertained problems and his proposed programming pertaining to them. The removal of this reference was an oversight and is accomplished herein. 4/

(1) In the rule amendments adopted in MM 81-496 5/, paragraphs (b) and (c), pertaining to noncommercial radio and TV station ascertainment efforts were removed and marked "[RESERVED]". As part of tidying up this rule, we will herein remove the "[RESERVED]" designations from paragraphs (b) and (c) and redesignate paragraphs (d) as (b), (e) as (c), (f) as (d), (g) as (e) and (h) as (f).

(m) The rules define as "exempt" FM applicants, permittees or licensees, those whose facilities are designated as "Class D" FM stations. When we drafted the new requirement for the listing and filing of issues and programs, we intended to give the same exemption for issues/programs lists and files to Class D operators as we had historically given them from ascertainment and the listing and filing of problems-programs records. Inadvertently, we failed to do this and the exemption was not written into the rule in the newly adopted Report and Order in public station regulatory relief. That relief is restored herein, and paragraph (a)(7) is amended to include it. We also will restore the Note, defining Class D FM stations, after amending it for corrective purposes immediately following paragraph (a)(7) and designate it as Note 2. The present Note describing the schedule of filings of issues/programs lists is designated Note 1.

(n) Another Note, which was mistakenly removed in the rule drafting process in the Public Broadcast Station regulatory relief proceeding 6/ is restored herein, also. It was formerly designated as Note 1, and followed paragraph (a)(7), in the pre-amended rule. It gave relief to licensees from filing certain engineering sections of applications. The Note is returned via this Order, thus retaining a filing relief for licensees which we mistakenly eliminated. It will be located following paragraph (a)(2) to which it properly belongs.

(o) The period of retention paragraph, formerly (g), redesignated herein as (e), bears, in part, text referring to "contracts" between certain parties. These were syndicated exclusivity arguments between cable operators and TV licensees. This requirement expired with the

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4/ It should be noted that the application Form 340 which also contains this problems-programs list requirement for new noncommercial stations, is under revision and will be released soon.

5/ See paragraph (a) above.

6/ Id.

elimination of the syndicated exclusivity rules in the Report and Order in Dockets 20988 and 21284. 7/ This paragraph, relating to such "contracts," was deleted from §73.3527 in the Order adopted January 24, 1984. 8/ It was also deleted from the period of retention paragraph. Unfortunately, when the rule was drafted in the Report and Order in MM Docket 81-496 9/, the old, incorrect text ("contracts") was reintroduced into the period of retention paragraph (g). When the incorrect "contracts" text was removed from paragraph (g) in the January 24, 1984 Order, text regarding a filing certification of pre- and post-filing announcements was inserted into the paragraph. (It had not been written into the rule previously at paragraph (g) when the pre- and post-filing relaxation had been adopted.) That certification retention requirement is now re-inserted into (old) paragraph (g), redesignated as (e) in this Order.

(p) Another problem in this "Period of Retention" paragraph is the lack of a time-of-retention directive for public stations' issues/programs lists. When §73.3527 was amended to include the new requirement in the Report and Order in MM Docket 81-496, it was designated as paragraph (a)(7); however, the rule drafter failed to add it to the period of retention paragraph which states the various retention periods of the various files. It is inserted, via this Order, designating the retention period as the "entire license period," i.e., 5 years for TV stations and 7 years for radio stations as stated in paragraph (a)(7).

(q) A clarification is made to paragraph (f), former (h), by adding the modifying words "noncommercial educational" to the text as follows:

"Copies of any material required to be in the public file of any [noncommercial educational] TV or radio station....."

(r) See item 3 of the attached rules' appendix for the amendments described in paragraphs 1.(j) through 1.(q) above.

2. In General Docket 84-361, 49 FR 17045, April 23, 1984, the Commission gave public notice of rules to be reviewed in 1984 pursuant to Section 610 of the Regulatory Flexibility Act of 1980. 5 U.S.C. 610. The purpose of the review is to determine whether such rules imposed a significant economic impact on a substantial number of small entities. The rule evaluations have been completed for the 1984 review period. Our cumulative review evaluations over the past three years have surveyed Subparts A, B, C and F of Part 73; all of Part 74; FCC Forms used pursuant to Parts 73 and 74; most of Part 76; and all of Parts 78 and 100. In 1985, the review and evaluation of our rules, pursuant to Regulatory Flexibility Act requirements, continue and will include Subparts E and H of Part 73; and the very small number of unreviewed rules in Part 76.

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7/ In the Matter of Cable TV Syndicated Program Exclusivity Rules. 79 FCC 2d 663.

8/ See paragraph (b) above.

9/ See paragraph (a) above.

3. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

4. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3(B)).

5. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

6. Therefore, IT IS ORDERED, That pursuant to Sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and Sections 0.61 and 0.283 of the Commission's Rules, Part 73 of the FCC Rules and Regulations IS AMENDED as set forth in the attached Appendix, effective 30 days after publication in the Federal Register.

7. For further information on this Order, contact Steve Crane, (202) 632-5414, Mass Media Bureau.

FEDERAL COMMUNICATIONS COMMISSION



James C. McKinney  
Chief, Mass Media Bureau

Attachment: Appendix

# A P P E N D I X

1. In the Memorandum Opinion and Order released October 23, 1984 (BC Docket 79-219) and published in the Federal Register on October 29, 1984 at 49 FR 43474, (FR Doc. 84-28445), the appendix amending §73.3526 inadvertently designated "paragraph (a)(14)" as the paragraph to be revised. It should have been paragraph (a)(10). The amendatory language and the subject paragraph are corrected herein to read:

47 CFR 73.3526 is amended by revising paragraph (a)(10) to read as follows:

§73.3526 Local public inspection file of commercial stations.

(a) \* \* \*

(10) For AM and FM broadcast stations every three months a list of at least 5 to 10 community issues addressed by the station's programming during the preceding 3 month period. The list is to be filed the tenth day of each calendar quarter (e.g. January 10, April 10, July 10 and October 10). The list shall include a brief narrative describing how each issue was treated, i.e., public service announcements or programs, giving a description of the programs including time, date and duration of each program. These lists are to be retained for the entire license renewal period.

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2. Section 73.3526 is amended by revising introductory paragraph (a); by restoring a Note to follow paragraph (a)(2); by removing paragraph (a)(9) [Reserved] and redesignating paragraphs (a)(10) [see item 1 above] and (11) as (a)(9) and (10) respectively; and by revising paragraphs (e) and (f). The rule will read, in its entirety, as follows:

§73.3526 Local public inspection file of commercial stations.

(a) Records to be maintained. Every applicant for a construction permit for a new station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraph (a)(1) of this section. Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraphs (a)(1), (2), (3), (4), (5), (6), (7) and (10) of this section. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing material described in paragraph (a)(8) of this section; every permittee or licensee of an AM or FM station shall maintain for public inspection a file containing material described in paragraph (a)(9) of this section. The material to be contained in the file is as follows:

(1) A copy of every application tendered for filing, with respect to which local public notice is required to be given under the provisions of §73.3580 or §73.3594; and all exhibits, letters and other documents tendered for filing as part thereof; all amendments thereto, copies of all documents

incorporated therein by reference, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition. The file shall also contain a copy of every written citizen agreement. For purposes of this section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operation in the public interest, in areas such as--but not limited to--community ascertainment, programming, and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, program supply contracts and so on. However, the mere inclusion of commercial terms in a primarily noncommercial agreement--such as a provision for payment of fees for future services of the citizen-parties (see "Report and Order," Docket 19518, 57 FCC 2d 494 1976))--would not cause the agreement to be considered commercial for purposes of this section.

Note: Applications tendered for filing on or before May 13, 1965, which are subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of §73.3594, and material related to such applications, need not be placed in the file required to be kept by this section. Applications tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of §73.3580, need not be placed in the file required to be kept by this section.

(2) A copy of every application tendered for filing by the licensee or permittee for such station which is not included in paragraph (a)(1) of this section and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the



licensee, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

Note: The engineering section of the applications mentioned in paragraphs (a)(1) and (2) of this section, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps and information (State, county, city, street address, or other identifying information) showing main studio and transmitter location shall be kept in the file.

(3) A copy of every ownership report or supplemental ownership report filed by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed, and all documents incorporated therein by reference, including contracts listed in such reports in accordance with the provisions of §73.3615(a)(4)(i) and which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.

(4) Such records as are required to be kept by §73.1940 concerning broadcasts by candidates for public office.

(5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, and all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference and which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC.

(6) The Public and Broadcasting--A Procedure Manual (see FCC 74-942, 39 FR 32288, September 5, 1974).

(7) Letters received from members of the public as are required to be retained by §73.1202.

(8) For commercial TV broadcast stations every three months a list of at least 5 to 10 community issues addressed by the station's programming during the preceding 3 month period. The list is to be filed by the tenth day of each calendar quarter (e.g. July 10, October 10, January 10 and April 10) and should include a record of programming for the 3 preceding calendar months (e.g., the list filed by October 10 would be a record of programming from July 1 through September 30). The list shall include a brief narrative describing how each issue was treated. The description of the program should include,

but is not limited to, the time, date and duration of each program, the title, and the type of programming in which the issue was treated. (e.g., public service announcements, a call-in program with a public official, etc.). These lists are to be retained for the entire license renewal period.

Note: The first quarterly filing is to include at least the past three months of a station's programming performance. If the last annual problems/programs list was filed more than three months prior to October 1, 1984, the licensee must place in its public inspection file an issues/programs list encompassing the period of time between its last annual filing and October 1, 1984.

(9) For commercial AM and FM broadcast stations every three months a list of at least 5 to 10 community issues addressed by the station's programming during the preceding 3 month period. The list is to be filed by the tenth day of each calendar quarter (e.g. January 10, April 10, July 10, and October 10). The list shall include a brief narrative describing how each issue was treated, i.e., public service announcements or programs, giving a description of the programs including time, date and duration of each program. These lists are to be retained for the entire license renewal period.

Note: The first quarterly filing is to include at least the past 3 months of a station's programming performance. If the last annual issues/programs list was filed more than 3 months prior to July 1, 1984, the licensee must place in its public inspection file an issues/programs list encompassing the period of time between its last annual filing and July 1, 1984.

(10) Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to §73.3580(h), place in the station's local public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement.

(b) Responsibility in case of assignment or transfer. (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of §73.3580 or §73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the FCC files.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(c) Station to which reports pertain. The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees, and licensees need not keep in the file copies of such applications, reports, and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this section.

(d) Location of records. The file shall be maintained at the main studio of the station, or any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

(e) Period of retention. The records specified in paragraph (a)(4) of this section shall be retained for periods specified in §73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in §73.1202 (3 years). The issues/program list specified in paragraphs (a)(8) and (9) of this section shall be retained for the term of license (5 and 7 years for TV and radio, respectively). The certification specified in paragraph (a)(10) of this section shall be retained for the period specified in §73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a)(1), (2), (3), and (5) of this section shall be retained as follows:

(1) The applicant for a construction permit for a new station shall maintain such a file so long as the application is pending before the FCC or any proceeding involving that application is pending before the courts. (If the application is granted, paragraph (e)(2) of this section shall apply.)

(2) The permittee or licensee shall maintain such a file so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material as long as it is retained by the licensee even though the request for inspection is made after the conclusion of the required retention period specified in this subparagraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee. Applications and related material placed in the file shall be retained for a period of 7 years from the date the application is tendered for filing with the FCC with two exceptions: First, engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a new or modified mode; and second, all of the material shall be retained for whatever longer period is necessary to comply with the following requirements:

(i) Material shall be retained until final FCC action on the second renewal application following the application or other material in question; and

(ii) Material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to an FCC investigation or a complaint to the FCC of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statute of limitations. Where an application or related material incorporates by reference material in earlier applications and material concerning programming and related matters (section IV and related material), the material so referred to shall be retained as long as the application referring to it. If a written agreement is not incorporated in an application tendered for filing with the FCC, the starting date of the retention period for that agreement is the date the agreement is executed.

(f) Copies of any material required to be in the public file of any applicant for a construction permit, or permittee or licensee of any commercial TV or radio station shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the applicant, permittee or licensee, within a reasonable period of time which, in no event, shall be longer than seven days unless reproduction facilities are unavailable in the applicant's, permittee's or licensee's community. The applicant, permittee or licensee is not required to honor requests made by mail, but may do so if it chooses.

3. Section 73.3527 is amended by revising introductory paragraph (a); restoring a note to follow paragraph (a)(2); by revising paragraph (a)(7); by redesignating the note following paragraph (a)(7) as Note 1, and adding a note to follow it, designated Note 2; by removing paragraph (a)(9) [RESERVED] and redesignating paragraph (a)(10) as (a)(9); by removing paragraphs (b)[RESERVED] and (c)[RESERVED] and redesignating paragraphs (d) as (b), (e) as (c), (f) as (d), (g) as (e) and (h) as (f); and by revising (new) paragraphs (e) and (f). The rule will read, in its entirety, as follows:

§73.3527 Local public inspection file of noncommercial educational stations.

(a) Records to be maintained. Every applicant for a construction permit for a new station in the noncommercial educational broadcast services shall maintain for public inspection a file containing the material in paragraph (a)(1) of this section. Every permittee or licensee of a station in the noncommercial educational broadcast services shall maintain for public inspection a file containing the material described in paragraphs (a)(1) through (9) of this section. The material to be contained in the file is as follows:

(1) A copy of every application tendered for filing with respect to which local public notice is required to be given under the provisions of §73.3580 or §73.3594; and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need

not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

Note: Applications tendered for filing on or before May 13, 1965, which were subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of §73.3594, and material related to such applications, need not be placed in the file required to be kept by this section. Materials tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of §73.3580 need not be placed in the file required to be kept by this section.

(2) A copy of every application tendered for filing by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part, which is not included in paragraph (a)(1) of this section and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

Note: The engineering section of the applications mentioned in paragraphs (a)(1) and (2) of this section, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps and information (State, county, city, street address, or other identifying information) showing main studio and transmitter location shall be kept in the file.

(3) A copy of contracts listed in ownership reports filed in accordance with the provisions of §73.3615(e) and which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found

in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.

(4) Such records as are required to be kept by §73.1940, "Broadcasts by candidates for public office."

(5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this Part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference and which, according to the provisions of §§0.451 through 0.461 of the rules, are open for public inspection at the office of the FCC.

(6) The Public and Broadcasting: Revised Edition (see FCC 74-942, 39 FR 32288, September 5, 1974).

(7) For nonexempt noncommercial educational broadcast stations, every three months at list of at least 5 to 10 community issues addressed by the station's programming during the preceding 3 month period. The list is to be filed by the tenth day of each calendar quarter (e.g., July 10, October 10, January 10 and April 10) and should include a record of programming for the 3 preceding calendar months (e.g., the list filed by July 10 would be a record of programming from April 1 through June 30). The list shall include a brief narrative describing how each issue was treated. The description of the program should include, but is not limited to, the time, date and duration of each program, the title, and the type of programming in which the issue was treated, (e.g., public service announcements, a call-in program with a public official, etc.). These lists are to be retained for the entire license period.

Note 1: The first quarterly filing is to include at least the past three months of a station's programming performance. If the last annual issues/programs list was filed more than three months prior to October 1, 1984, the licensee must place in its public inspection file an issues/programs list encompassing the period of time between its last annual filing and October 1, 1984.

Note 2: For purposes of paragraph (a)(7) of this section, exempt applicants, permittees or licensees include those whose existing or prospective facilities are Class D FM stations or whose programming is wholly "Instructional."

(8) The lists of donors supporting specific programs.

(9) Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to §73.3580(h), place in the station's public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement.

(b) Responsibility in case of assignment or transfer. (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of §73.3580 or §73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC, and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the FCC files.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(c) Station to which records pertain. The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees and licensees need not keep in the file copies of such applications, reports and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this section.

(d) Location of records. The file shall be maintained at the main studio of the station, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

(e) Period of retention. The records specified in paragraph (a)(4) of this section shall be retained for the period specified in §73.1940 (two years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The issues/programs list specified (a)(7) shall be retained for the term of the license (5 years and 7 years for TV and radio respectively). The donor lists specified in paragraph (a)(8) of this section shall be retained for two years. The certification specified in paragraph (a)(9) of this section shall be retained for the period specified in §73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a)(1), (2), (3), and (5) of this section must be retained as follows:

(1) The applicant for a construction permit for a new station shall maintain such a file so long as the proceeding in which that application was filed is pending before the FCC or any proceeding involving that application is pending before the courts. (If the application is granted, paragraph (e)(2) of this section shall apply.)

(2) The permittee or licensee shall maintain a file of such records so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material as long as it is retained by the

licensee even though the request for inspection is made after the conclusion of the required retention period specified in this subparagraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee. Applications and related material placed in the file shall be retained for a period of 7 years from the date the application is tendered for filing with the FCC, with two exceptions: First, engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a new or modified mode; and second, all of the material shall be retained for whatever longer period is necessary to comply with the following requirements:

(i) Material shall be retained until final FCC action on the second renewal application following the application or other material in question; and

(ii) Material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to an FCC investigation or a complaint to the FCC of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statutes of limitations. Where an application or related material incorporates by reference material in an earlier application and material concerning programming and related matters (section IV and related material), the material so referred to shall be retained as long as the application referring to it.

(f) Copies of any material required to be in the public file of any applicant for a construction permit, or permittee or licensee of any noncommercial educational TV or radio station shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable costs of reproduction. Requests for machine copies shall be fulfilled at a location specified by the applicant, permittee or licensee, within a reasonable period of time which, in no event, shall be longer than seven days unless reproduction facilities are unavailable in the applicant's, permittee's or licensee's community. The applicant, permittee or licensee is not required to honor requests made by mail but may do so if it chooses.